

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	First Presbyterian Church of Johnson City, TN, II, Inc.) District 9, Map 46N, Group N, Control Map 46N,) Parcels 6 and 6P) <i>Claim of Exemption</i>)	Washington County .
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INITIAL DECISION AND ORDER

Statement of the Case

This is an appeal pursuant to Tenn. Code Ann. section 67-5-212(b)(2) from the denial of an application for exemption of the subject property from ad valorem taxation. The application was filed with the State Board of Equalization ("State Board") on December 24, 2004. By letter dated June 1, 2005, State Board staff attorney Emily Bennett notified the applicant of the denial on the ground that "[t]he property is not being used in furtherance of the religious purpose of the institution as required by T.C.A. section 67-5-212." First Presbyterian Church of Johnson City, Tennessee, II, Inc. ("FPC"), the applicant and owner of the subject property, appealed this initial determination to the State Board on July 29, 2005. The undersigned administrative judge conducted a hearing of this matter on September 19, 2006 in Greeneville. FPC was represented by Arthur M. Fowler and Arthur M. Fowler, III, of Fowler & Fowler, PLLC (Johnson City). Deputy Assessor John Sims appeared on behalf of the Washington County Assessor of Property.

Findings of Fact and Conclusions of Law

FPC is a nonprofit religious corporation whose principal office is located at 105 South Boone Street in downtown Johnson City. On June 30, 2000, with an eye to expansion, FPC purchased two West Main Street lots next to the church building and across from a bus terminal. Situated on the rectangular parcel in question was a vacated furniture store which FPC has converted into a mission for inner city women called "The River." It officially opened on October 4, 2004.

Described by full-time Director Stacy Larsen as a "very unique" ministry, The River is essentially a low-cost Laundromat which also provides a variety of social services from a "Christ-centered" perspective. A detailed description of those services as well as the equipment in the facility appears in the attached page of a collective exhibit (#1). The regular activities include a daily devotional.

Since its inception, The River has served approximately 300 women and children. A number of those persons, Ms. Larsen testified, are prostitutes and/or drug addicts. The River strives to impart job and other independent living skills (e.g., money management; nutrition;

hygiene; parenting); however, by Ms. Larsen's estimation, this ministry simply attends to the basic needs of 70% of its clients.

The River is funded entirely by FPC, grants, and private contributions. Ms. Larsen and her part-time assistant are employees and members of FPC. Some 35 volunteers, most of whom are also members of the church, play an important role in the day-to-day operations of The River. All proceeds from those operations are donated to local charities.

Article II, section 28 of the Tennessee Constitution authorizes, but does not require, the legislature to exempt from taxation property which is "used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has decreed that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists....

Tenn. Code Ann. section 67-5-212(a)(1)(A).

In this state, property tax exemptions are liberally construed in favor of qualifying institutions such as FPC. See, e.g., Christian Home for the Aged, Inc. v. Assessment Appeals Commission, 790 S.W.2d 288, 291 (Tenn. Ct. App. 1990). Nevertheless, as the party appealing from the initial determination on its application for exemption, FPC has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

In Keystone Recovery Center, Inc. (Davidson County, Initial Decision and Order, February 11, 2005), a "501(c)(3)" organization devoted to the rehabilitation of alcohol and drug addicts sought exemption of the personal property used in the operation of a coin-operated laundry/tanning bed business ("Clean Surfin'") that was staffed entirely by the organization's clients. Much like The River, that establishment "doubled as a 'community center' that included a lounge; exercise room; children's play area; game room; and computers." *Id.* at p. 2. While acknowledging that the institution's usage of the property in question could legitimately have been deemed charitable in some respects, the administrative judge upheld the denial of exemption on the rationale that:

Clean Surfin' was conceived mainly as a business enterprise and auxiliary source of revenue for the organization....That the business proved to be unprofitable is immaterial, as is the fact that KRC devoted its modest income from the subject property solely for charitable causes. (Citation omitted.)

Id. at p. 3.

But whereas Keystone Recovery Center involved a business located in a strip shopping center that catered to the general public, The River is situated and intended primarily for the benefit of the very persons – low-income and at-risk women and children – whom the institution

seeks to uplift. In the opinion of the administrative judge, this distinguishing factor militates in favor of the claimed exemption. Although FPC has not formalized any process that would restrict usage of the subject property to the intended beneficiaries, the evidence of record indicates that virtually all users of the facility are truly needy women. By contrast, it is common knowledge that many thrift shops eligible for property tax exemptions under Tenn. Code Ann. section 67-5-212(n)¹ target and are frequented by bargain hunters as well as underprivileged persons. Moreover, The River appears to pose no significant threat of competition with commercial laundries. Indeed, according to Ms. Larsen's testimony, many of her clients had repeatedly tapped such sources as The Salvation Army for donations of clothes in lieu of incurring the expense of cleaning them.

Tenn. Code Ann. section 67-5-212(b)(3)(B) provides that, if an approved application for exemption is filed after May 20 and more than 30 days after the exempt use of the property in question began, the exemption will be effective as of the date of application.

Order

It is, therefore, ORDERED that the subject property shall be exempt from taxation as of December 24, 2004.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

¹See, e.g., Smith County Help Center (Smith County, Final Decision and Order, August 24, 2005).

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of October, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Arthur M. Fowler, Esq., Fowler & Fowler, PLLC
First Presbyterian Church of Johnson City, TN, II, Inc.
John Sims, Washington Country Chief Deputy Assessor of Property

FPC.DOC

The River—Offering a Life Preserver For Local Women In Need

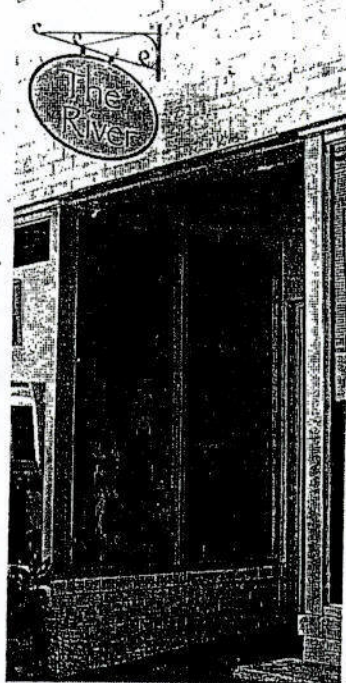
Stacy Larsen, Director

On October 4, 2004 First Presbyterian Church of Johnson City, Tennessee opened the doors to a new ministry called **The River**. The River's mission is to create a safe place for women where they may come and learn ways to care for themselves and their family in a non-threatening environment.

The idea originated over a decade ago when member **Betsy Beaver** was involved in a Mother's Bible Study Group, "I thought other women could benefit from having a place to come together and talk and learn from one another." However, not until 2004 was the River Team (**Betsy Beaver, Stacy Larsen, Kelly Kirkpatrick, and Malcolm Blowers**) formed to begin the project.

In less than a year a dirty, vacant downtown building owned by the church was transformed into a bright, cheerful, space for women to meet, listen, learn, laugh, and wash clothes. Four washing and drying machines where two loads of laundry a day can be washed for twenty-five cents has become a major attraction. Additional services include a shower, sewing machines, computers, a beauty salon area, a play area, a prayer request chalk board, community resources bulletin board, and a library. Fun activities include crafts, puzzles, games, or reading.

The church and community came together to work and fund this project. They were blessed



with an outpouring of interest, donations, contributions of skills, and support. Since opening the doors in October, The River has already served over 150 women and children in the downtown area. "The River has been a life preserver for me," said Wilma. "I was sinking before The River opened, and then they threw me a life preserver that was just the right size and fit."

The River is open Monday through Friday from 9 a.m.- 3 p.m. and is staffed by Director **Stacy Larsen** and over 30 different volunteers throughout the month. For many women, The River is a place to visit with caring volunteers, to share their story and pray together. Most are on low incomes and living

either in assisted or public housing, with a friend, or on the streets. They are met where they are in life and offered love, support, and hopefully, opportunities to make a difference in the quality of their lives. The staff reaps many blessings from these contacts. "I wish everyone could get a chance to volunteer," says one volunteer, "We get so caught up in our own lives and forget how grateful we should be for what we do have."

The beauty of this project is how easy it can be duplicated in other cities by other churches. If your community could use a similar mission and you want to learn more, contact **Stacy Larsen** at (423) 926-8111 or SLlarsen@worldnet.att.net.